



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/541,829

07/12/2005

Parvinder S Walia

62771A

6140

109 7590 07/28/2008

The Dow Chemical Company  
Intellectual Property Section  
P.O. Box 1967  
Midland, MI 48641-1967

EXAMINER

ASINOVSKY, OLGA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

07/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/541,829	<b>Applicant(s)</b> WALIA ET AL.	
	<b>Examiner</b> OLGA ASINOVSKY	<b>Art Unit</b> 1796	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 and 20-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-18 and 20-40 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/30/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The amendment and Remarks/arguments filed on June 09, 2008 have been considered.

#### ***Response to Amendment***

##### ***Election/Restrictions***

1. The amendment filed on 06/09/2008 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the amendment to claim 1 is directed to a final product that was restricted in Group II as a product after grafting reaction wherein the polyolefin is spun into a fiber and subjected/capable of catalyzing by hydrolysis reaction in the presence of a zirconate or titanate compound specified in the restricted Group IX. The restriction between Group I and Group II is made as an intermediate-final product relationship. By the amendment of 06/09/2008, no one claim left in Group I as an intermediate product as original presentation in the Restriction mailed on 08/21/2007. In the Response filed on 09/19/2007 Applicants elected Group I, claims 1-5, 9-16, 18-19 and 23-24 with traverse. In the Office action mailed on 12/14/2007 claims 6-8, 17, 20-22 and 25-35 (Groups II to IX) are withdrawn from consideration as non-elected inventions with traverse.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the

omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

2. Newly submitted claims 36-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

New claim 36 drawn to the fabricated article that is a fiber and step "c" is accomplished using a spin finish applicator. Applicants elect Group I, claims 1-5, 9-16, 18-19 and 23-24 drawn to a process for producing a grafted polyolefin with a silane material in the presence of a free radical initiator, see Election of 09/19/2007.

Invention of Group I, as original claims 1-5, 9-16, 18-19 and 23-24 and an invention in new claim 36 are unrelated. Invention of Group I, original claims 1-5, 9-16, 18-19 and 23-24 and new claim 36 together with Group VI and Group VIII with withdrawn claims 21 and 25-31 and 35 are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01). In the instant case the different inventions have different functions and different effect.

There was no elected invention for making a fabricated article such as a spin finish applicator, see Election of 09/19/2007.

New claim 37 is a method such that the material is capable of catalyzing the hydrolysis reaction by mixed with a non-aqueous spin finish for the fiber.

New claim 38 is a method wherein the material capable of catalyzing the hydrolysis reaction with a zirconate or titanate compound.

New claim 39 is a method wherein the catalyzing the hydrolysis reaction is obtained by the specified catalyzer compounds.

New claim 40 is a method wherein the catalyzing the hydrolysis reaction with the specified zirconium derivative.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I, as original claims (1-5, 9-16, 18-19 and 23-24) and new claims 37-40 together with Group IX with withdrawn claims 32-34 are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product, and the species are patentably distinct (MPEP § 806.05(j)). In the instant case, the intermediate product is deemed to be useful as a primer for paint coating composition and the inventions are deemed patentably distinct because there is nothing of record to show them to be obvious variants.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 36-40 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement for the claims in the original presentation of 07/12/2005.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLGA ASINOVSKY whose telephone number is (571)272-1066. The examiner can normally be reached on 9:00 to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Olga Asinovsky  
Examiner  
Art Unit 1796

O.A.  
July 23, 2008

/James J. Seidleck/  
Supervisory Patent Examiner, Art Unit 1796